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ZYTEK COMMUNICATIONS CORPORATION ONE MARKET STREET, SPEAR TOWER SUITE 3600 SAN FRANCISCO, CA 94105			EXAMINER	JAIN, RAJ K
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/047,374	Applicant(s) MIGIMATSU, TAKA
	Examiner RAJ JAIN	Art Unit 2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 November 2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4,5,31,38,45,50,53-55,57,58 and 62-70 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2,4,5,31,38,45,50,53-55,57,58 and 62-70 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 14 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Claim Objections

Claim 4 is objected to because of the following informalities: In line 9 after "encoding is completed, transmitting" insert "by said first access device", similarly in lines 15 and 17 after "message file" insert "by said second access device". Appropriate correction is required.

Claim 69 is objected to, it is not clear what is meant by "before said step of transmitting, receiving destination information by said first access device.", it appears a step is missing, in other words "before" the mentioned steps to do what. Clarification is required.

Claim Rejections - 35 USC § 112

Claims 1 and 4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite here in part ".....wherein said digital message comprises a complete caller communication...". The specification and/or drawings fail to disclose what constitutes a "a complete caller communication", its not clear or understood whether complete caller communication is simply a telephone number used for paging, a brief message, a personal or subscriber ID, etc.. Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1, 2, 4, 5, 31,38,45,50,53-55,57,58 and 62-70 are rejected under 35 U.S.C. 102(e) as being anticipated by Gordon (USP 5,608,786).

Regarding claims 1, 4, 34, 40 and 43, Gordon discloses a system (Fig. 1) for transmitting and receiving voice messages from a caller 14, 16 over a network (PSTN and internet) (10, 4) said system comprising:

a first access device 6 (Fig.1), coupled to a network 10 said first access device 6 comprising a voice encoding device (Access device 6 has encoding device to convert communications received from one form to another as appropriate col 4 lines 63-65; col 5 lines 8-10,) configured to receive a first voice signal and generate digital message file (Fig. 1, each Unipost Access node converts incoming voice signal to a message file, col 5 lines 35-50; col 9 lines 5-9.), wherein said digital message file comprises a complete caller communication;

a first storage device capable of storing said digital message file (messages are stored for later retrieval; col 2 lines 8-15; 32-35; col 3 lines 35-45; col 6 lines 34-40.); a transmission device for transmission of said digital message file through said network 4 (Figs 1 & 2, the unipost access nodes 6 includes transmission and receiving functional devices for transmission, reception and/or storage of digital data that can be retrieved by subscribers as needed, col 3 lines 30-50; col 4 lines 45-60; col 9 lines 12-16); wherein said transmission device transmits said digital message file through said network after said voice encoding device completes the generation of said digital message file, and wherein said transmission of said digital message file is responsive to a caller indication (col 2 lines 55-65; col 5 lines 17-31; 50-60; col 9 lines 35-60; a caller may initiate access to the unipost node based on a alert that a message is waiting to be retrieved at which point the access node will deliver the message to the subscriber);

a second access device 6 (Tokyo Unipost Access node) coupled to said network 4, said second access device 6 comprising: a receiving device configured to receive said digital message file from said transmission device (Figs 1 & 2, the unipost access nodes 6 includes transmission and receiving functional devices for transmission, reception and/or storage of digital data that can be retrieved by subscribers as needed, col 3 lines 30-50; col 4 lines 45-60; col 9 lines 12-16, furthermore, one skilled in the art

will appreciate that Unipost Access Nodes anywhere geographically maintain similar functional devices such as transmitter, receiver and storage devices as necessary), responsive to said caller indication (col 2 lines 55-65; col 5 lines 17-31; 50-60; col 9 lines 35-60; a caller may initiate access to the unipost node based on a alert that a message is waiting to be retrieved at which point the access node will deliver the message to the subscriber);

a second storage device capable of storing said digital message file (messages are stored for later retrieval; col 2 lines 8-15; 32-35; col 3 lines 35-45; col 6 lines 34-40.);

a delivery notification device configured to notify of the receipt of said digital message file, said delivery notification device being responsive to said caller indication (col 2 lines 55-65; col 5 lines 17-31; 50-60; col 9 lines 35-60; a caller may initiate access to the unipost node based on a alert that a message is waiting to be retrieved at which point the access node will deliver the message to the subscriber); and

a voice decoding device configured to decode said digital message file and generate a second voice signal, wherein said voice decoding device decodes said digital message file after said receiving device completes the reception of said digital message file (col 4 line 55 - col 5 line 10; a digital message (entire message) left in the Unipost access node can be retrieved by a subscriber at a later time, further the message can be converted from one form to another (i.e. facsimile to email, email to speech), thus the process of decoding would be inherent in order to transform the message from one format to another and be properly retrieved and comprehended by a subscriber.).

Regarding claims 2, Gordon discloses a packet switched network (Fig. 1, ref. 4).

Regarding claims 5, Gordon discloses transmitting a voice signal from a caller (Fig. 1) voice device 16 through a caller communication medium (telephone line via PSTN 10) to said first access device 6 (see Fig. 1, voice device 16 connected via public switched telephone lines.).

Regarding claim(s) 38, 53 and 58, Gordon discloses a packet switched network 4 (Figs. 1-2).

Regarding claim(s) 63-65, Gordon discloses a caller/recipient voice device 16 (Fig. 1) and a caller/recipient telecommunication medium (telephone line to PSTN 10), wherein said caller/recipient voice device is coupled through said caller/recipient telecommunication medium to said voice encoding/decoding device (PSTN coupled to Unipost 6 which has the voice encoding/decoding device inherent within the system for message conversions col 4 line 55 - col 5 line 10).

Regarding claim(s) 31, 45, 50 and 66, Gordon discloses voice device as a telephone 16 (Fig. 1) and communication medium comprising a circuit switched network (PSTN 10).

Regarding claim(s) 54, 55, 57 and 62, Gordon discloses a circuit switched network as a PSTN (Fig. 1, ref. 10).

Regarding claims 67 and 69, Gordon discloses wherein destination information is received by said first access device before said transmission device transmits said digital message file (col 2 lines 1-15).

Regarding claims 68 and 70, Gordon discloses wherein said destination information is used to select said second access device (col 7 lines 18-55).

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4, 5, 31,38,45,50,53-55,57,58 and 62-70 have been considered but are moot in view of the new ground(s) of rejection.

While the Examiner has addressed all amended limitations based on cited prior art(s), however, for completeness Examiner addresses Applicants contentions as appropriate.

Regarding claim(s) 1, Applicant contends "Gordon discloses a process by which an ongoing communication is established, not the creation of a complete caller communication followed by a transmission of the communication over a network.

Examiner respectfully disagrees, Gordon explicitly discloses that a complete call (emphasis added) or messaging is performed prior to transmission of the same by a subscribers request (see col 2 lines 8-15; 32-35; col 3 lines 35-45; col 6 lines 34-40, col

6 lines 59 – col 7 line 10 messages may be stored for later retrieval by a subscriber from any geographical location when appropriate.) A complete email, voice message, facsimile can stored in the Unipost access node (Fig. 1, ref 6) that can than be accessed by a subscriber from any location that has access to the Unipost node.

Applicant further contends that "transmission of said digital message file is responsive to a caller indication," and that the reception of the digital message file is "responsive to said caller indication." The portions of Gordon that relate to subscriber access to voice messages do not anticipate these claim elements.

Examiner respectfully disagrees, Gordon again explicitly discloses a message awaiting receipt by a subscriber by notifying the subscriber via an alert signaling which may than be transmitted automatically to the subscriber or upon request by the subscriber (col 2 lines 55-65; col 5 lines 17-31; 50-60; col 9 lines 35-60; a caller may initiate access to the unipost node based on a alert that a message is waiting to be retrieved at which point the access node will deliver the message to the subscriber).

Thus based on the foregoing reasoning, Examiner asserts that all limitations are disclosed and/or taught by Gordon and therefore the rejection to claim 1 is sustained.

Rejection to claim 4 which recites features similar to claim 1 is also sustained for similar reasoning as to claim 1.

Rejection to dependent claims 2, 5, 31,38,45,50,53-55,57,58 and 62-70 is sustained based on limitations being anticipated by cited prior art(s).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJ JAIN whose telephone number is (571)272-3145. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raj K. Jain/

Examiner, Art Unit 2416